March 11, 2011

Earl Liverman
U.S. EPA Region 10
1910 Northwest Boulevard, Suite 208
Coeur d'Alene, ID 83814

Re: EPA's Draft Environmental Evaluation/Cost Analysis (EE/CA) for Avery Landing Site in Shoshone County, Idaho

Dear Mr. Liverman:

Potlatch Land & Lumber, LLC (Potlatch) appreciates the opportunity to comment on the subject EE/CA. As a current owner of a portion of the Avery Landing Site, Potlatch has a keen interest in the EE/CA and any final remedy that is selected by EPA at the Site. As you are aware, Potlatch has already expended significant resources in attempting to address the environmental issues at the Site. Potlatch has acted responsibly and in close consultation with the State of Idaho since environmental issues were first discovered at the Site in the 1980s. Even though Potlatch never caused or contributed to the historical environmental conditions at the Site, we have been the only entity that has attempted to address these issues. We fully expect to continue to contribute our fair share to the costs of any cleanup at the Site attributable to petroleum releases on Potlatch's property and hope that we can work with EPA to achieve an agreeable settlement. Accordingly, we are submitting the following technical comments seeking clarification of certain matters relevant to the Site cleanup.

I. Technical Comments

Potlatch appreciates the opportunity that was provided by EPA to discuss technical issues related to the subject EE/CA with our consultant Geo-Engineers. Based on those discussions, we offer the following technical comments.

A. Multiple terms are interchangeably used in the EE/CA to characterize the presence and delineation of the extent of petroleum hydrocarbons and it is not clear what the applicable screening levels and cleanup criteria are for petroleum hydrocarbons at the Site. The only criteria specified for cleanup is a "free product" of greater than .1 inch. This standard is derived from the definition of "free product" in state water quality rules at IDAPA 58.01.02. It is not clear how this standard will be applied and implemented during site cleanup. Also, state rules only require the removal of free product to the "maximum extent practicable". *See* IDAPA 58.01.02.852.04,a. There is no discussion on what the maximum extent practicable is or how the

proposed remedy achieves this ARAR. Clarification is requested on what screening levels or cleanup criteria for petroleum hydrocarbons will be used to delineate the extent of contamination and soil requiring remedial action. Further, clarification is requested for how the selected screening levels or cleanup criteria will be utilized during the remedial action to identify the limits of the proposed remedial excavation and for any required post-construction groundwater monitoring.

B. The EE/CA acknowledges that the concentrations of metals present in soil at the Site are likely the result of background metals concentrations for the area. However, the EE/CA identifies metals as contaminants of concern for the Site. Clarification is requested on what is the basis for identification of background metals as contaminants of concern. Further, clarification is requested on how background metals concentrations will be utilized during remedial action to identify the limits of the proposed remedial excavation and for any required post-construction groundwater monitoring.

C. The extent of remedial activities is identified to be based on the presence of petroleum hydrocarbons. However, the EE/CA also compares existing Site data to screening levels for various other supposedly non-petroleum chemicals including volatile and semi-volatile organic compounds and polychlorinated biphenyls (PCBs). Clarification is requested on how the screening levels for these alleged non-petroleum chemicals and PCBs will be utilized (i) to define the extent of contamination; (ii) to identify the limits of the remedial action; and (iii) to determine any required for post-construction groundwater monitoring.

D. Clarification is requested on the purpose and need for the pre-design polychlorinated biphenyl (PCB) investigation identified in the EE/CA cost estimate for Alternative A4 (i.e., off-site disposal). The existing Site data included in the EE/CA show that PCBs were not detected in soil, sediment, groundwater and surface water at concentrations greater than screening levels and it is not clear why additional characterization of PCBs is warranted.

E. Due to the high costs associated with disposal of the excavated materials and import of backfill to the Site, the remedial actions evaluated should include consideration of, and allowance for, reuse of the soil or components of the soil requiring treatment as part of the remedial action in addition to landfill disposition. Options for soil reuse should include screening, treatment, and reuse of the reclaimed larger soil fraction (ex. gravel) materials as backfill at the Site, use of the impacted media as a component to roadway paving, or other alternatives approved by EPA.

F. Clarification is requested on the extent of excavation that is anticipated along and within the St. Joe River as part of the selected remedial alternative. Additionally, the EE/CA

specifies the installation of a temporary dam-like structure to exclude water and facilitate the shoreline excavation. It is not clear however, if the cost for the dam-like structure is included in the remedial cost estimates.

G. The source for several of the unit rate assumptions in the cost estimates provided were not identified. Clarification is requested on the basis and assumptions for all unit rates used so that independent verification of the estimated costs can be made.

H. A schedule for the completion of remedial action planning, design and performance of remedial activities is not provided. Consideration of the schedule for preparation and performance of remedial activities may have significant influence on the project approach and cost. Clarification is requested on EPA's proposed schedule for implementation of remedial activities at the Avery Landing site.

II. Specific Comments and Suggested Revisions to Sections of the Draft EE/CA

In addition to the foregoing technical comments, we have comments regarding the drafting of the subject EE/CA. As stated above, it is our hope that we can work with EPA to reach an agreeable settlement. However, despite our desire to work cooperatively with EPA there are portions of the subject EE/CA which potentially impacts our relationship. We are concerned about many aspects of the subject EE/CA and how it might affect Potlatch's share and amount of liability at the Site. Therefore we have determined that it is necessary to submit the following detailed comments.

A. Executive Summary

1. Paragraph 1. The summary mentions that there are three owners of the Site. We note that there are actually four owners - the bed and banks of the St. Joe River are owned by the State of Idaho.

2. Paragraph 2. There is no evidence to suggest that "hazardous substances" (aside from naturally occurring metals) are discharging to the St. Joe River from the Site. We suggest that this paragraph should be amended accordingly.

B. Chapter 2, Site Characterization

1. Section 2.1.2.

a. First Paragraph. Based on historical records there were many more fuel tanks on the Site than the 500,000 gallon AST. These tanks and associated piping were located on Section 15 of the Site which is not owned and never was owned by Potlatch. Also, as stated in our technical comments, we don't understand the emphasis on trace amounts of PCBs detected in a very small percentage of samples at the Site, when these trace amounts are all below any conservative health based levels.

b. Second Paragraph. The Figures 2-4 and 2-5 only highlight certain Milwaukee Railway facilities. The railroad site schematic is a more accurate depiction of the Site and shows that all of the fuel tanks at the Site were located on Section 15 and were not located on Potlatch's property. This is significant because the only contaminant at the Site is petroleum. Also the AST referenced in this paragraph should be a 500,000 gallon tank not a 50,000 gallon tank.

c. Third Paragraph. Potlatch purchased the property from the Chicago Milwaukee Railroad in 1980 in a sale that was approved by the Bankruptcy Court. Potlatch did not purchase the property from CMC Real Estate Company as suggested. We fail to see the relevance of the statement that "there are reports that Potlatch attempted to purchase the entire site." This is not relevant to the EE/CA and should be deleted. Further the statement that "many of the Milwaukee Railroad facilities . . . were located on Potlatch's property" is misleading and therefore should be deleted. A simple reference to the railroad site schematic can provide readers with an accurate picture of the various facilities and their locations. To the extent such a narrative description of historical railroad facilities is necessary to the EE/CA, it should state that all of the fuel storage and refueling facilities were located on property not owned by Potlatch.

d. Fifth Paragraph. The statement that Potlatch reinjected untreated ground water from the 1990 pump and treat system after processing through an oil-water separation is misleading. Such a system was approved by IDEQ with knowledge by EPA. There may have been one instance when reinjection of untreated ground water accidentally took place. We believe that this statement does not assist in the analysis and should be deleted from the EE/CA.

2. Section 2.2.3. There is no evidence that reinjection of ground water north of the road by Potlatch pursuant to IDEQ requirements affected the extent and distribution of contaminants. This sentence should be deleted.

3. Section 2.2.5. The first sentence should be amended to note that Potlatch, not IDEQ, discovered and reported the discharges in 2005. Potlatch strongly disagrees with the characterizations in this section related to boom maintenance. It is also not clear why such a discussion is relevant to this EE/CA particularly since the use of booms is never considered in the remainder of the EE/CA. Accordingly, we request that this discussion be deleted.

4. Section 2.2.6 Third Paragraph. Potlatch disagrees that "CERCLA hazardous substances" such as PAHs and metals were detected at the Site. First, any PAHs detected at the site are not CERCLA hazardous substances but rather are clearly from petroleum or "any fraction thereof" as specified at 42 U.S.C. § 9601(14) and implementing EPA Guidance. This fact is acknowledged later on in the EE/CA. *See* EE/CA at p. 2-21. Second, as also acknowledged in the EE/CA, the metals detected in site soils at the Site are clearly from native soils and consistent with EPA and state rules, should not be treated as contaminants or COC's at the Site. *See* EE/CA at p. 2-16. Third, as discussed in our Technical Comments, the emphasis on PCBs is not appropriate as all samples have been below the most conservative federal and state regulatory criteria. Further, it would be appropriate in this Section to specify what the cleanup levels are for any alleged hazardous substances at the Site and whether such levels were exceeded based on data collected. Finally, we don't understand why the former domestic well is discussed in this section in view of the fact it is not being used, and will not be used in the future if appropriate institutional controls are put in place. We believe the discussion of the well should be deleted. If the EE/CA requires reference to the domestic well on site in this section (despite the fact that it is not being used, and will not be used in the future whether or not institutional controls are put in place) then it should be made clear that all sample results ever taken from the domestic well indicated compliance with all state and federal drinking water criteria.

5. Section 2.4.1 First Paragraph. The statement that "other contaminants are likely related to other historical activities" does not appear supportable. Almost all of the "other contaminants" or "COCs" are metals which are naturally occurring in native soils. *See* EE/CA at p. 2-16.

6. Section 2.4.3. The reference to "potential future residents" at the Site would not be necessary if institutional controls were considered in the EE/CA. Likewise the alleged threat of some hypothetical potential future residents drinking water from the closed domestic well on site could easily be addressed by the appropriate use of institutional controls. *See also* General Comment D, *infra*.

7. Section 2.6.2.1. Residents. It is not appropriate to consider "full time residents" as appropriate receptors. Institutional controls could address this issue. Similarly assuming that there will be ingestion of impacted ground water and dermal contact is not appropriate when institutional controls could address this. Finally the risk of inhalation of

volatile chemicals in "homes" could also be addressed through institutional controls. *See also* General Comment D, *infra*.

Regarding the exposure pathway in the St. Joe River, the potential for future domestic water intakes in the area could have been addressed by reliance upon institutional controls. Further, the statement that residents "may ingest contaminated fish" is inappropriate and inflammatory and should be deleted as there is no evidence that any fish are contaminated and this portion of the St. Joe River is catch-and-release only. Such a statement also is contradicted in a later part of the EE/CA in which it is concluded that the level of biological impact, if any, is low. *See* EE/CA at p. 2-19.

8. Section 2.6.2.2. As we stated above, reliance on unrestricted residential use for determining IDEQ initial default target levels for Site soil is inappropriate. We also note that IDEQ rules implementing the default target levels at IDAPA 58.01.24, "Standards and Procedures for Application of Risk Based Corrective Action at Petroleum Release Sites" specifically acknowledge the use of institutional controls and site specific risk assessment which we believe would lead to different target levels for the Site. *See also* General comment D, *infra*.

9. Section 2.6.4. It would be more accurate to state that the "only" as opposed to the "primary" COC for the site is petroleum. Petroleum is not a CERCLA hazardous substance. We do not think there is any supportable basis to suggest that the PAHs or VOCs present at the site above screening levels are anything but petroleum products and therefore should not be considered hazardous substances under CERCLA.

C. Chapter 3, Identification of Removal Action Objectives.

1. Section 3.2.2. This section notes that waste streams must be disposed of in accordance with CERCLA's off-site rule. Since the waste streams are non-CERCLA wastes at the Site, further explanation should be provided as to why CERCLA's off-site rule must be followed.

III. General Comments

A. Potlatch is concerned that the tone and approach of the draft EE/CA is that of an advocacy document focused on justifying the application of CERCLA and the maximum assessment of liability against Potlatch under CERCLA. We believe that this tone and approach detracts from the EE/CA fulfilling its objectives.

B. The draft EE/CA appears to be laying the groundwork for imposing significant liability on Potlatch by (i) attempting to characterize Potlatch as a party that has disregarded the environmental issues at the Site and not exercised due care with respect to the risks at the Site,

and (ii) suggesting that a good portion of the contamination at the Site is found on Potlatch's property. Potlatch believes such characterizations in the draft EE/CA do not assist in the analysis of the risks at the Site and proper remediation, and should be deleted. Potlatch notes that it is the only entity that has ever stepped up and taken responsibility to address the environmental issues at the Site (with the concurrence of state authorities and knowledge of the EPA) despite the fact that Potlatch never caused any of the Site's environmental problems. Moreover, it is clear from the data presented in the EE/CA that most of the contamination on Potlatch's property has likely migrated onto the property from properties to the north and east of Potlatch's property due to the well documented movement of ground water and the location of petroleum storage and fueling tanks on other portions of the Site. *See also* Specific Comments B.1 and B.3, *supra*.

C. The data presented in the EE/CA shows pretty clearly that the only real risk at the Site is that petroleum products (which are not CERCLA hazardous substances) are seeping into the St. Joe River in contravention of the Clean Water Act. The application of CERCLA to this Site, however, substantially increases disposal costs and potentially expands the scope of Potlatch's liability at the site. For example, the EE/CA concludes that waste disposal must comply with CERCLA's off-site disposal rule. Since the waste streams at the Site are non-CERCLA wastes, it is not clear why CERCLA's off-site rule would apply. It would have been helpful for the EE/CA to compare the costs of disposal of the waste stream if the CERCLA off-site rule did not apply. This is a significant issue because a large percentage of the $8 plus million recommended cleanup alternative involves the hauling of large volumes of impacted soils and other materials for long distances to ensure compliance with CERCLA's off-site rule. We believe that alternative disposal scenarios should be considered which could substantially reduce cleanup costs. *See also*, Technical Comment E, *supra*.

D. Related to General Comments A, B and C, EPA has proposed clean up the Avery Landing Site soils and groundwater to achieve a future residential use scenario. Potlatch does not believe it is reasonable to treat an isolated site that was operated as an industrial site for most of the 20th century and which is at least a mile from any full time residential structures as a likely future residential site. Had commercial and industrial cleanup standards been applied instead, the EE/CA would have concluded that any deminimus hazardous substances found at the Site are either natural background concentrations found in native soils in the area (for metals) or otherwise do not pose any risks at the Site and are therefore not COCs. Potlatch is disappointed that the EE/CA did not consider the application of institutional controls at the Site as a mechanism to ensure that future residences and ground water extraction does not occur. Institutional controls are a well recognized mechanism under Idaho and federal law to manage residual risks at a site. Had commercial and industrial cleanup standards been applied and an institutional control approach been utilized, Potlatch believes it is likely that EPA would have properly concluded that this is not a CERCLA site, thereby potentially resulting in substantially reduced cleanup costs at the Site.

E. As stated in the Technical Comments, it is clear from the EE/CA that the real driver for site cleanup is diesel fuel and Bunker C fuel (DRO/ heavy oils) and associated PAHs. However no clear cleanup levels are suggested for these constituents and therefore it is difficult to assess what the actual costs of the proposed cleanup will be or when the cleanup will be complete. The draft EE/CA does suggest a so called "LNAPL" or "free product" cleanup standard of .1 inch of petroleum on the water surface or the water table for ground water. This standard is derived from Idaho law, however the free product standard is modified under Idaho law to only require clean up to this standard to the "maximum extent practicable." Potlatch would suggest that a cleanup in which there is no documented or anticipated impact to human health or the environment that will likely cost in excess of $8 million far exceeds a "practicable" clean up.

F. We understand EPA's desire to address the minor seeping of petroleum into the St. Joe River. However, the draft EE/CA does not present any data or information that such minor seeping is causing any negative ecological or human health impacts. This is a significant issue for Potlatch, because in the end, it is on the basis of this minor seepage that the EE/CA recommends a removal action that is estimated to cost in excess of $8 million.

G. Potlatch also believes that other remedial alternatives that meet the RAO's should have been considered. A cut-off wall alternative was not evaluated and should have been included in the EE/CA to ensure that a representative range of effective alternatives were considered. Installation of a cut-off wall, LNAPL extraction, hot spot/source removal (e.g. free product removal, removal of source materials on the shoreline), and institutional controls can be used to remediate the Site at a lower cost. This alternative was considered by Potlatch in its draft EE/CA Report (Golder 2010a), and apparently rejected by the EPA in the current draft EE/CA so we expect that the EPA will be reluctant to amend the EE/CA to consider the alternative. However, at the very least, we believe the EPA should consider alternative disposal scenarios on and off-site which would substantially reduce the costs of the cleanup. *See also*, Technical Comment E, *supra* on soil reuse options.

Thank you again for considering these comments. We look forward to working with EPA to implement a cost effective and equitable cleanup at the site.

Very truly yours,

Lorrie D. Scott
Vice President, General Counsel
& Corporate Secretary